Appendix II.

[Vide item III (2) at page 30 supra.]

L.A. BILL No. 2 OF 1948.

(As passed by the Assembly.)

A Bill to provide for the constitution of Home Guards in the Province of Madras.

WHEREAS it is necessary to constitute a volunteer organization for use in emergencies in the Province of Madras; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Madras Home Guards Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) (*a*) This section shall come into force at once in the whole of the Province.

(*b*) The rest of this Act shall come into force at once in the presidency-town and the districts of East Godavari, West Godavari, Kistna, Guntur, Kurnool, Bellary, Anantapur, Cuddapah, Nellore, North Arcot, Chingleput, Salem, Coimbatore, Malabar and South Kanara.

(*c*) The Provincial Government may, by notification in the *Fort St. George Gazette*, extend the rest of this Act to any other area in the Province with effect from such date as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "Home Guard" means a person who is appointed as a Home Guard under this Act;

(*b*) "prescribed" means prescribed by rules made under this Act.

Constitution of Home Guards and appointment of officers.

3. (1) The Provincial Government may constitute for each of the areas specified in section 1 (3) (*b*), and for each of the other areas notified under section 1 (3) (*c*), a volunteer body called the "Home Guards", every member of which shall have such powers and discharge such duties in relation to the protection of persons, the security of property, and the preservation of public order or tranquillity as may be assigned to him by or under this Act.

(2) The Provincial Government or any person empowered by them in this behalf may appoint as many officers as the Provincial Government may consider necessary for the proper governance and conduct of the Home Guards; one of the officers so appointed may be a Commandant for all the Home Guards of the Province.

Appointment and removal of Home Guards.

4. (1) Subject to the provisions of this Act and the rules made thereunder, any person possessing the prescribed qualifications and willing to serve may be appointed as a Home Guard by such authority and in such manner as may be prescribed.

(2) Every Home Guard shall receive a certificate of appointment which shall be in such form and shall be issued by such authority as may be prescribed and thereupon he shall have the powers, privileges and protection conferred, and discharge the duties imposed, on a Home Guard by or under this Act.

(3) The prescribed authority may, subject to such conditions as may be prescribed, suspend, dismiss or remove any Home Guard from his office ; and thereupon the certificate received by him shall cease to have effect.

Period of service and discharge.

5. A Home Guard shall be bound to serve the Provincial Government for such period and in such areas as may be prescribed, but he may be discharged at any time by such authority and subject to such conditions as may be prescribed.

Calling out of Home Guards.

6. The Commissioner of Police in the presidency-town, and the District Superintendent of Police concerned elsewhere, may at any time call out, in such manner and through such officer as may be prescribed, any Home Guard for the presidency-town or district, as the case may be, for training or to discharge any duties assigned to him by or under this Act.

Powers, privileges and protection of Home Guards.

7. (1) A Home Guard, when called out under section 6, shall have the same powers, privileges and protection as an officer of the Police appointed under the Madras City Police Act, 1888, or the Madras District Police Act, 1859, as the case may be.

Madras Act III of 1888, Central Act XXIV of 1859.

(2) No prosecution shall be instituted against a Home Guard in respect of any act done or purporting to be done in the exercise of his powers or the dischrge of his duties as such, except with the previous sanction of the Commissioner of Police in the presidency-town and of the District Superintendent of Police concerned elsewhere.

Control by officers of police force.

8. A Home Guard, when called out under section 6 in aid of the police force, shall be under the control of the officers of the police force in such manner and to such extent as may be prescribed.

Penalties.

9. (1) If any Home Guard, without sufficient cause, neglects or refuses to obey the orders of any superior authority or officer, or fails to discharge any other duty, or deserts his post, or is guilty of any wilful breach or neglect of any provision of this Act or of any rule or lawful order made or issued thereunder by a competent authority he shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both.

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(2) No prosecution shall be instituted against any Home Guard for any offence punishable under sub-section (1), without the previous sanction of an officer empowered by the Provincial Government in this behalf.

(3) An offence punishable under sub-section (1) shall be cognizable.

Rules.

10. (1) The Provincial Government may, by notification in the *Fort St. George Gazette*, make rules consistent with this Act for giving effect to the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate the following matters, namely :—

(*a*) all matters required or allowed by this Act to be prescribed ;

(*b*) the exercise by any police officer or any officer of the Home Guards of the powers conferred by section 6 on the Commissioner of Police, or the District Superintendent of Police concerned, as the case may be ;

(*c*) the exercise of control by officers of the police force over Home Guards when acting in aid of the police force ;

(*d*) the organization, appointment, discipline, training, arms, accoutrements and clothing, conditions of service, powers, and duties of Home Guards ;

(*e*) the exercise by Home Guards of any of the powers exercisable under section 7, sub-section (1).

Central Act XLV of 1860.

Home Guards to be public servants.

11. Home Guards acting in the exercise of their powers or the discharge of their duties under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Madras Ordinance I of 1948.

Repeal and saving.

12. The Madras Home Guards Ordinance, 1948, is hereby repealed :

Provided that the Home Guards constituted under the said Ordinance shall be deemed to have been constituted under this Act ; and all appointments and rules made, and all notifications, certificates and orders issued, under the said Ordinance and in force immediately before the coming into force of this Act shall continue in force and be deemed to have been made or issued under this Act.